

UNITED STATES PATENT AND TRADEMARK OFFICE

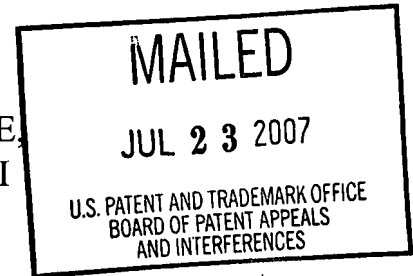
---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

---

*Ex parte* ALEX J. HINCHLIFFE,  
ANDREW KEM, BOBBY RAI  
AND FRASER P. HOWARD

---



Application No. 10/028,412

---

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

---

This application was received electronically at the Board of Patent Appeals and Interferences (Board) on June 29, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

An Examiner's Answer was mailed on May 4, 2006. The Evidence Relied Upon section (8), page 2-3, state that "No evidence is relied upon by the examiner in the rejection of the claims under appeal." A review of the file reveals that prior art was applied to the rejections on appeal. See the Grounds of rejection section (9) of the

Application No. 10/028,412

Examiner's Answer. The Manual of Patent Examining Procedure, (MPEP), in §1207.02 states:

(8) *Evidence Relied Upon*. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

Before further review, the Examiner must mail a PTOL-90 that will include in the amended Evidence Relied Upon section, the list of references mentioned in the statement of rejections. See the Manual of Patent Examining Procedure, (MPEP) § 1207.02.

Appropriate correction is required.

Accordingly, it is

**ORDERED** that the application is returned to the Examiner:

- 1) issue and mail a PTOL-90 having the missing references listed under the Evidence Relied Upon section, heading (8) of the Examiner's Answer; and
- 3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By: Patrick J. Nolan  
PATRICK J. NOLAN  
Deputy Chief Appeals Administrator  
(571) 272-9797

PJN/cam

Application No. 10/028,412

Zilka-Kotab, PC  
PO Box 721120  
San Jose, CA 95172-1120